

## AMERICAN ARBITRATION ASSOCIATION

ARBITRATION NO. 50 181 T 00252 05

NATIONAL PAINTBALL )

SUPPLY, INC.,

)

Claimaint,

)

- vs -

)

PROCAPS, L.P.

(f/k/a Paintball, )

L.P., )

)

Respondent.

- - - - -

TRANSCRIPT OF ARBITRATION HEARING, taken by and  
before KRISTIN N. LAFTY, Registered Professional Reporter  
and Notary Public, at the Law Offices of PEPPER HAMILTON,  
18th & Arch Streets, Philadelphia, Pennsylvania, on  
Thursday, September 28, 2006, commencing at 8:30 a.m.

ERSA COURT REPORTERS

30 South 17th Street

United Plaza - Suite 1520

Philadelphia, PA 19103

(215) 564-1233

1       A P P E A R A N C E S:

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3       BEFORE:

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JOHN WILKINSON, ESQUIRE

WILLIAM A. ZUCKER, ESQUIRE

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DAVID L. EVANS, ESQUIRE

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DUANE MORRIS

BY: ROBERT KELLY, ESQUIRE

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BY: PATRICK LOFTUS, ESQUIRE

BY: LARRY POCKERS, ESQUIRE

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30 South 17th Street, Suite 1200

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Counsel for the Claimant

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PEPPER HAMILTON

BY: NICOLE GALLI, ESQUIRE

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BY: ANTHONY J. DESTRIKATS, ESQUIRE

BY: FRANCIS P. DEVINE, II, ESQUIRE

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18th & Arch Streets

Philadelphia, Pennsylvania 19103

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Counsel for the Respondent

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19       A L S O     P R E S E N T:

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Margaret Riley

Richmond Italia

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Edward Truant

Howard Tafler

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Gino Postervivo

Amy Flannery

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## I N D E X

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WITNESS

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JOHN CAMPO

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BY: Mr. Kelly

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BY: Ms. Galli

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## E X H I B I T S

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1 oh, Steve Baldwin, what a big mouth. Steve  
2 Baldwin is the European agent. I thought I'd  
3 get another two weeks out of you.

4 Q. Let's put that conversation in context,  
5 though. When are you seeing -- you are seeing  
6 Richmond in person?

7 A. No. This is a telephone call at my  
8 place.

9 Q. When does this conversation occur?

10 A. First, maybe second week in July.  
11 Probably 7th of July, 8th.

12 Q. Was it before or after Procaps had  
13 received the notice of arbitration?

14 A. Actually, what it would have been was  
15 before the 7/7 date, which when I supplemented  
16 the demand for arbitration to include claims  
17 for the unilateral termination. So it was  
18 before the 7th of 7.

19 Q. In your discussion with Mr. Italia, did  
20 he bring up your -- that your June 30th letter  
21 -- in other words, did you get any --

22 A. No.

23 Q. Was it referenced that you got it wrong  
24 in your June 30th letter?

1 A. No. I confronted him about it and  
2 wanted to hear what he had to say about the  
3 European pre-sales, if you will, with respect  
4 to the product that was on the water. And I  
5 said, put this thing back on. And the only  
6 response I got -- and that conversation was  
7 abruptly terminated. Was I thought I'd have  
8 you for another two weeks. Steve Baldwin has  
9 a big mouth.

10 Q. What did you take that to mean?

11 A. I took it to mean that Stephen wasn't  
12 being as covert as Richmond would like.  
13 Customers were coming back to me that Stephen  
14 was making available and letting them know  
15 that as soon as the ship pulled up to port,  
16 he'd be deep in DRAXXUS. And, you know, jig's  
17 up.

18 (At this time, a short break  
19 was taken.)

20 BY MR. KELLY:

21 Q. Mr. Campo, there had been -- well, let  
22 me just ask you to take a look at an exhibit.  
23 It's NPS-1459. Mr. Campo, can you identify  
24 that document?

1 A. Yes. This is a letter forwarded by  
2 NPS's counsel at the time, Drinker, Biddle &  
3 Wreath, to counsel for PLP at the time.

4 Q. And what was the purpose of this  
5 letter?

6 A. The purpose was to put them on notice  
7 that we were demanding that they perform in  
8 accordance with section 8.5 of the agreement  
9 and that -- in essence.

10 Q. What were you -- okay. What were you  
11 asking for under that section? What does that  
12 section provide for?

13 A. Section 8.05 of the agreement?

14 Q. No. Yeah.

15 A. Section 8.05 of the agreement provides  
16 in the event that the termination attributable  
17 to their -- you know, to them that they were  
18 held to perform for a period of time under the  
19 contract.

20 Q. And did they perform under the contract  
21 pursuant to your demand?

22 A. No.

23 Q. Sir, I want to just go back for a  
24 second to this PMI deal. And there was some

1 testimony, questions asked of you about why  
2 the PMI deal ultimately went through.

3 MR. ZUCKER: Ultimately didn't  
4 go through.

5 BY MR. KELLY:

6 Q. Ultimately did not go through. Sir, if  
7 the contracts with Procaps were not  
8 terminated, would you have closed that  
9 transaction with PMI?

10 A. Mostly likely, no.

11 Q. What issues in your mind would have  
12 kept that contract from closing?

13 A. We had serious concerns about their  
14 financial situation at the time upon our due  
15 diligence. And it's kind of born fruit and  
16 proven correct. But we wouldn't have gone  
17 forward. And as a matter of fact, the  
18 agreement was terminated based upon our  
19 financial due diligence. Rather, the LOI was  
20 terminated. And we didn't proceed any further  
21 based upon what we obtained in our financial  
22 due diligence.

23 Q. In the event that Procaps had  
24 ultimately exercised its price protection

1 option, to pull the price protection -- we've  
2 heard a lot of testimony on it. That would  
3 have triggered the right of NPS to have the  
4 Diablo brands manufactured by someone else,  
5 correct?

6 A. Correct.

7 Q. Would you have elected that option,  
8 that counter-option for Diablo and moved it  
9 from Procaps?

10 A. No, no. There was no one to make that  
11 product other than Procaps at the consistency  
12 and with the quality necessary for that brand.

13 Q. How about the volumes?

14 A. Or at the volumes. No, we wouldn't  
15 have pulled the brand.

16 MR. KELLY: Thank you, sir.

17 BY MS. GALLI:

18 Q. Good afternoon. Hi, Mr. Campo.

19 A. Good afternoon.

20 Q. You had mentioned that you joined NPS,  
21 I think that was -- was that in 1999, was it?

22 A. No.

23 Q. 2000?

24 A. 2000.